

ENTERED

May 21, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KIMBEL CARTER,

Plaintiff,

v.

HARRIS COUNTY JAIL,

Defendant.

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CIVIL ACTION NO. H-20-1324

MEMORANDUM AND ORDER

Harris County Jail inmate Kimbel Carter, representing himself, filed a civil rights complaint challenging the conditions of his confinement. He has now filed a motion for an injunction ordering his release to home confinement due to the threat of COVID-19 at the jail.

A court may grant a preliminary injunction only when the movant establishes that: (1) there is a substantial likelihood that the movant will prevail on the merits; (2) there is a substantial threat that irreparable harm will result if the injunction is not granted; (3) the threatened injury [to the movant] outweighs the threatened harm to the defendant; and (4) the granting of the preliminary injunction will not disserve the public interest. *Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011) (citing *Byrum v. Landreth*, 566 F.3d 442, 445 (5th Cir. 2009)). The party seeking injunctive relief must prove each of the four elements before a preliminary injunction can be granted. *Bluefield Water Ass'n, Inc. v. City of Starkville, Miss.*, 577 F.3d 250, 253 (5th Cir. 2009).


Because a preliminary injunction is considered “an extraordinary remedy,” it is not granted routinely, “but only if the party seeking the injunction has clearly carried the burden of persuasion on all four elements.” *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 335 F.3d 357, 364 (5th Cir. 2003) (internal quotation marks and citation omitted).

The decision to grant or deny preliminary injunctive relief is left to the discretion of the district court. *Id.* at 363. Even when a movant establishes each of the four *Janvey* requirements, whether to grant or deny a preliminary injunction remains discretionary with the court, and the decision to grant a preliminary injunction is the exception, not the rule. *Id.* at 363-64.

Carter fails to demonstrate that he is entitled to the relief he seeks. Carter's complaint states that he is in jail not as a pretrial detainee entitled to the presumption of innocence, but as a convicted offender. He does not state whether he is serving a jail sentence or is held awaiting transfer to the Texas Department of Criminal Justice. He does not identify the crime for which he was convicted, preventing the court from balancing his interest in release with the public's interest in him serving his sentence.

The motion, (Docket Entry No. 8), is **denied**.

SIGNED on May 21, 2020, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", is positioned above a horizontal line.

Lee H. Rosenthal
Chief United States District Judge